1948. **File No.** Agrl. Debtors Relief II / 48

Legal **DEPARTMENT**

B **BRANCH**

K

A/11 **Subject:—** ~~Agrl Debtors Relief~~

Rules and Notifications under the Bombay Agricultural Debtors Relief Act, 1947

25/61

File No: Agrl. Debtors Relief II/48

Std. Sectt. Slip 24 B e.

398

C O N T E N T S.

Legal Department File No.Agrl.Debtors Relief II/48.

S.No.	R.I. / O.No.	Subject	Pages.
		Rules and Notification under the Bombay Agricultural Debtors Relief Act, 1947.	
1.	872 / 21.5.47	Whether the Civil Court have jurisdiction over the two areas - Akrani Mahal and Mehwassi..	1.
2.	8353 / 31.8.48	Whether sec. 3 of the Ordinance No.III of 1948 apply to the awards made by the Court under the Act.	3.
3.	179-L / 5.10.48	Whether the High Court can exempt the applications from the payment of court fee by issuing a circular.	5.

5-Cs.
M.V.V.
25/5.

Office of the R.L.A.

The two areas in question, the Akrani Mahal and the Mahwassi areas, are partially ~~xxxxx~~ excluded areas in this Province. There is a difference of opinion on the question whether the Civil Courts have jurisdiction in these areas or not. If the position stated in Commissioner, Central Division's letter dated 19th October 1946 (at p.67 of R.D. file S-127/26097 to 40801) is correct, the Civil Courts have no jurisdiction in the Mahwassi areas but have jurisdiction in the Akrani Mahal except in the 31 villages mentioned at page 73 of the same file. For his statement that the Civil Courts have jurisdiction in the remaining villages of the Akrani Mahal, the Commissioner relies on Judicial Department Notification published at page 299 of Part I of the Bombay Government Gazette dated 8th April 1875. The Notification is non-statutory and does not seem to mention the names of the remaining villages. It is, therefore, doubtful whether the notification can be relied upon to hold that the Civil Courts have jurisdiction in the remaining villages of the Mahal. As regards the Mahwassi areas, it will be seen from entry (13 I) in List II, which was furnished to Revenue Department with R.L.A's opinion No.4434, dated 14th May 1941, that the R.L.A. had taken the view that the Bombay Civil Courts Act, 1869, does not apply to these areas. The list was of course tentative and subject to verification by the Department concerned. On the other hand, it appears from entry (28) in Revenue Department Notification, No. S.127/53309, dated 1st February 1947 (which seems to have been prepared in consultation with the High Court) that it was presumed by Government that the two areas in question were within the jurisdiction of the Civil Judge, Junior Division, Shirpur. The question whether the Civil Courts have jurisdiction in the two areas or not will have to be settled by the Departments concerned

P.T.O.

if necessary in consultation with the High Court.

2. If it is decided that the Civil Courts have no jurisdiction in the two areas, action will have to be taken to confer the jurisdiction on the Civil Courts. For this purpose the Revenue Department has suggested that the Bombay Civil Courts Act, 1869, should be extended to the two areas. If this Act is so extended the Civil Courts will acquire jurisdiction in other matter also. Presumably this is not the intention at present. It is true that the proposal of applying all the Acts which are applicable to the rest of the Province to the Mehwassi areas is under consideration of Government. But the proposal it seems is restricted to the Mehwassi areas and some time would be required to work out the details of the proposal.

3. It is presumed that the Bombay Agrigultural Debtors Relief Act, 1947, is already applied to the two areas. To achieve the object in view, it would be sufficient if the Act is applied subject to the necessary modification of the definition of "Court" in section 2(3). For the existing definition the designation of the Civil Judge who will hear the applications under the Act may be substituted. The Department may examine whether any other modification of the Act is required for its working in the two areas.

Sd/- P.H.LAD,
20/5.
Remembrancer of Legal Affairs.

U.R. to R.D. No.4872, dated the 21st May 1948.

4-Cs.
M.V.V.
25/5.

Legal Department.

Section 3 of the Transfer of property (India) Ordinance, 1948 (Ordinance No. III of 1948) applies only to certain instruments specified in clauses (a) (b),(c) and (d) of sub-section (1) of section 17 of the Indian Registration Act, 1908, of which registration is compulsory under that Act. The awards made by the Court under the Bombay Agricultural Debtors Relief Act, 1947, do not fall under any of thesk clauses of section 17(1) of the Registration Act mentioned above and are required to be registered compulsorily in view of the provisions of section 38 of the Agricultural Debtors Relief Act.

The view taken by the District Judge, Ahmednagar in para 2 of his letter dated 20.7.1948 at p.17 ante that section 3 of Ordinance No.III of 1948 does not apply to awards made under the Agricultural Debtors Relief Act is correct. No amendment of the Act is, therefore, necessary.

Sd/-
31/8.

Additional Secretary to Government.

U.R. to R.D. No.8353, dated 31st August 1948.

4-Co.

K.V.V.
26/9.

Legal Department.

Court fee is leviable on the applications in question under item 1(b) in Schedule II to the Court-fees Act, 1870 (VII of 1870). It will not be possible for the High Court to exempt the applications from the payment of court fee by issuing a circular. If total or partial exemption is to be given action will have to be taken by Government under section 35 of the Court-fees Act.

2. Similarly the applications are required to be presented to the Court by the party in person or by his recognised agent or pleader. (cf.Rule 1 in Order III in the First Schedule to the Code of Civil Procedure, 1908). In this matter also it will not be possible for the High Court to issue a Circular to the Civil Courts as suggested by the Registrar of Co-Operative Societies.

Sd/-
5/10.

Additional Secretary to Governme

U.R. to R.D. (in Poona) No.170-L dated the 5th October 1948.

4-Co.

N.V.V.
26/5.